Donnelly v. *Eastes*, 94 Wis. 390, 69 N. W. 157; *Birmingham* v. *Lesan*, 77 Me. 494, 1 Atl. 151.

FRANCHISES — RIGHT TO ENJOIN COMPETITOR ILLEGALLY DOING BUSINESS WITHOUT A LICENSE. — Bill to enjoin defendant from operating a jitney-bus line in competition with complainant on ground that defendant's franchise was invalid because not signed by the mayor. *Held*, that the complainant is entitled to a perpetual injunction. *Memphis Street Ry. Co.* v. *Transit Co. et al.*, 198 S. W. 890 (Tenn.).

A franchise confers privileges which are exclusive in their nature against all persons upon whom similar rights have not been conferred. *Elizabethtown Gas Light Co.* v. *Green*, 46 N. J. Eq. 118, 18 Atl. 844, 846. The rights are essentially in all respects property. *City of Louisville* v. *Cumberland Telephone & Telegraph Co.*, 224 U. S. 649; *City of Morristown* v. *East Tenn. Telephone Co.*, 115 Fed. 304. Any person attempting to exercise such rights without legislative sanction invades the private property rights of one holding a valid franchise and may be restrained at the instance of the owner. *Bartlesville Electric Light & Power Co.* v. *Bartlesville Interurban Ry. Co.*, 26 Okla. 453, 109 Pac. 228; *Millville Gas Light Co.* v. *Vineland Light & Power Co.*, 72 N. J. Eq. 305, 65 Atl. 504. In a few jurisdictions the courts have proceeded on the ground that the complainant seeks to prevent competition with it, and have refused to grant an injunction. *Coffeyville Gas Co.* v. *Citizens Natural Gas Co.*, 55 Kan. 173, 40 Pac. 326; *Market R. Co.* v. *Central R. Co.*, 51 Cal. 583. Whether competition is so desirable as to justify this refusal of protection to a property right is questionable. Text-writers do not favor the doctrine. See DILLON, MUNICIPAL CORPORATIONS, § 1244.

INSANE PERSONS — GUARDIANSHIP AND PROTECTION — RIGHT OF GUARDIAN OF INSANE WIDOW TO DISSENT FROM WILL. — By statute a widow may elect whether to take under her husband's will or by descent (1903, ME. REV. STAT. c. 77, § 13). The guardian of an insane widow petitioned the probate court to be allowed to elect against the will. *Held*, that neither the guardian nor the court could exercise the widow's right for her. *Clark* v. *Boston Safe Deposit & Trust Co.*, 102 Atl. 289 (Me.).

A widow's right of election, being personal, does not survive to her heirs or personal representatives. *Donald* v. *Portis*, 42 Ala. 29; *Welch* v. *Anderson*, 28 Mo. 293. A few jurisdictions hold in accord with the principal case that if the widow is incompetent the right is defeated. *Crenshaw* v. *Carpenter*, 69 Ala. 572; *Lewis* v. *Lewis*, 29 N. C. 72. But the great weight of authority is that if the widow is incompetent the right may be exercised by a court of equity or by the guardian under the supervision of some court. *Penhallow* v. *Kimball*, 61 N. H. 596; *Kennedy* v. *Johnston*, 65 Pa. 451; *In re Andrews' Estate*, 92 Mich. 449, 52 N. W. 743; *Trower* v. *Spady*, 117 Va. 173, 83 S. E. 1049. See PAGE, WILLS, 719. This result has been generally reached by judicial decision, but in a few states it has been enacted by statute. See 1910, OHIO GEN. CODE, § 19574; 1908, N. C. REV. CODE, § 3080; MO. REV. STAT. § 355. The court in making its election leans toward the will. *In re Bringhurst*, 250 Pa. 9, 95 Atl. 320. But it considers the interests of the incompetent party and no one else. *Spruance* v. *Darlington*, 7 Del. Eq. 111, 30 Atl. 663. The decision of the principal case seems to be an example of the hostility of many courts toward statute law.

INTERNATIONAL LAW — LEGATIONS AND DIPLOMATIC AGENTS — IMMUNITY OF DIPLOMATIC AGENTS FROM SUITS: EXTENT OF WAIVER. — The defendant, an accredited minister of a foreign sovereign, having waived his diplomatic immunity, was surcharged with a sum of money upon his accounts in ad-

ministration proceedings, and on his failure to comply with an order for payment of the amount into court, the plaintiff, a beneficiary under the estate, asked leave to issue a writ of sequestration against personal property of the defendant. *Held*, that the writ will not issue. *In re Suarez*, 117 Law T. Rep. 239.

It is well settled that a diplomatic official, his family and subordinates, are immune from local process in the jurisdiction to which he is accredited. See WESTLAKE, PRIVATE INTERNATIONAL LAW, 5 ed., § 194; 1 KENT, COMMENTARIES, 15, 38. This immunity extends to business adventures outside the scope of his official duties. *Magdalena* v. *Martin*, 2 E. & E. 94. But a diplomatic official may submit to local jurisdiction by an express or implied waiver of his immunity. *Taylor* v. *Best*, 14 C. B. 487. The rule of immunity is not based upon any considerations inherently peculiar to the person of a diplomatic agent, but rather upon a decent respect for the interests of the foreign sovereign whom he represents, which forbids that the usefulness of the envoy to his superior be impaired, or that the dignity of his office be violated. See HALL, INTERNATIONAL LAW, 5 ed., 172. It has been argued that from this it follows that any waiver of immunity by an envoy without the assent of his sovereign is inoperative. See 27 HARV. L. REV. 489. There are *dicta* to this effect in the American decisions. See *United States* v. *Benner*, 24 Fed. Cas. 1084, 1087; *Valarino* v. *Thompson*, 7 N. Y. 576, 579. Whether or not it is necessary to hold a waiver without the assent of the sovereign inoperative for all purposes, and the court in the present case expressly left this problem open, it is clear that any proceedings against a foreign diplomatic envoy based on his waiver of immunity, not assented to by his sovereign, must stop short of an execution on the person or personal property of the official, if the requisite respect for the foreign sovereign is to be preserved. The decision in the present case was based on the Diplomatic Privileges Act of 1708, which provides in terms that any writ or process against the person or personal property of a foreign diplomatic official shall be void. See 7 ANNE, c. 12. But this statute is merely declaratory of the common law. See *Viveash* v. *Becker*, 3 M. & S. 284, 291. Inability to enforce a judgment against a foreign diplomat does not render the judgment nugatory, for the inability is only temporary.

MASTER AND SERVANT — WORKMEN'S COMPENSATION ACT — MINOR EMPLOYED IN VIOLATION OF STATUTE. — Statute prohibits the employment of children under the age of fourteen between 9 P. M. and 6 A. M. Plaintiff, a child of thirteen, was accidentally injured while working for defendant at 3 A. M. He brings action under the Workmen's Compensation Act. *Held*, that plaintiff cannot recover. *Pounteney* v. *Turton*, 34 Times L. Rep. 103.

By the general rule of statutory construction, statutes not purely remedial apply only to such cases as fall within their language. *United States* v. *Goldenberg*, 168 U. S. 95; *Smith* v. *Boston & Albany R. Co.*, 99 App. Div. 94, 91 N. Y. Supp. 412. The Workmen's Compensation Act applies only where the relation of master and servant actually exists. *Gooch* v. *Citizens' Electric St. Ry. Co.*, 202 Mass. 254, 88 N. E. 591; *Flower* v. *Buck*, 159 N. Y. Supp. 1042. But the law does not recognize the existence of the relation of master and servant, when the contract purporting to create the relation and the employment under such contract are illegal and against public policy, for an illegal contract is itself void. *Wallace, Sup't* v. *Cannon*, 38 Ga. 199; *Gennert* v. *Wuestner*, 53 N. J. Eq. 302, 31 Atl. 609. Hence the principal case would appear to be sound, since the action was brought under the Workmen's Compensation Act, and this act does not apply. *Kemp* v. *Lewis*, [1914] 3 K. B. 543. A more interesting question would have been raised had the case been based on common-law principles, as an action for negligence. Here it would seem that the child is not barred by the violation of the statute. *Braasch* v. *Michigan Stove Co.*,